

Message Text

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PAGE 01 STATE 083056
ORIGIN IO-13

INFO OCT-01 AF-10 ARA-06 EA-07 EUR-12 NEA-10 ISO-00
SIG-01 L-03 CIAE-00 CU-02 INR-07 NSAE-00 USIA-06
AGRE-00 AID-05 EB-08 COME-00 TRSE-00 OES-06 OIC-02
HEW-04 DODE-00 PM-04 H-01 NSC-05 PA-01 PRS-01
SP-02 SS-15 /132 R

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FM SECSTATE WASHDC
TO AMEMBASSY PARIS
INFO USMISSION USUN NEW YORK
AMEMBASSY VIENNA
USMISSION IAEA VIENNA
AMEMBASSY ROME
AMEMBASSY LONDON
AMEMBASSY NAIROBI
AMCONSUL MONTREAL

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PARIS FOR NESCO MONTREAL FOR ICAO ROME FOR FODAG
VIENNA FOR UNIDO LONDON FOR SHIPPING ATT NAIROBI FOR UNEP

E.O. 11652: N/A

TAGS: UN, ECOSOC, AORG, UNESCO

SUBJECT: NESCO ACCEPTANCE OF NEW JOINT INSPECTION UNIT
STATUTE

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REF: (A) PARIS 8907; (B) ROME 5325; (C) A-1073;
(D) STATE 281587; (E) USUN 5628

1. WE APPRECIATE MISSION'S REPORT (REFTEL A) OF DIFFICUL-
TIES EXPECTED REGARDING ACCEPTANCE BY UNESCO OF NEW STATUTE
FOR THE JOINT INSPECTION UNIT (JIU). OUR LONGSTANDING
MAJOR INTEREST IN UN SYSTEM EVALUATION PROCEDURES HAS BEEN

REINFORCED RECENTLY BY THE REPORT OF THE RIBICOFF COMMITTEE ON U.S. PARTICIPATION IN INTERNATIONAL ORGANIZATIONS AND THE DISCUSSIONS CONCERNING EVALUATION AT THE MOST RECENT MEETING OF THE GENEVA GROUP CONSULTATION LEVEL.

2. WE ARE DISAPPOINTED TO LEARN THAT SENIOR SECRETARIAT MEMBERS ANTICIPATE DIFFICULTIES WITH THE NEW JIU STATUTE AND THAT UNESCO SECRETARIAT IS RESISTANT TO THE JIU (REFTEL A, PARA. 4). WE DO NOT AGREE WITH VIEWS ATTRIBUTED TO THE SECRETARIAT THAT THERE IS ANY LEGAL OBSTACLE TO IMMEDIATE COOPERATION BETWEEN THE JIU AND UNESCO. SENIOR SECRETARIAT MEMBERS SHOULD BE AWARE THAT WE REGARD THIS ISSUE TO BE OF GREAT IMPORTANCE.

3. CONTRARY TO REPORT RECEIVED BY MISSION (REFTEL A, PARA. 4), WE HAVE RECEIVED REPORT FROM ROME (REFTEL B) THAT FAO IS NOT RPT. NOT EXPECTED TO REJECT THE JIU, ALTHOUGH THERE MAY BE A TECHNICAL PROBLEM REGARDING THE CLAUSE OF THE NEW STATUTE MAKING THE JIU A SUBSIDIARY ORGAN OF THE FAO CONFERENCE.

4. U.S. POSITION AT MEETINGS OF THE SPECIAL COMMITTEE AND EXECUTIVE BOARD IS TO FAVOR ACTION THAT WILL ALLOW IMMEDIATE COOPERATION WITH JIU. IF THE LEGAL OBJECTION THAT ONLY THE GENERAL CONFERENCE CAN ACCEPT THE JIU STATUTE SINCE THE STATUTE MAKES THE JIU A SUBSIDIARY ORGAN OF UNESCO IS RAISED, USDEL SHOULD ACCEPT DELAYING FULL AND/OR FINAL APPROVAL OF NEW STATUTE UNTIL MEETING OF UNESCO CONFERENCE IN NOVEMBER 1978, AND SUPPORT MEANS TO ALLOW LIMITED OFFICIAL USE

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FULL COOPERATION WITH JIU UNTIL THAT DATE. IF THIS LEGAL ARGUMENT IS NOT RAISED BY ANYONE, USDEL MAY SUPPORT ACCEPTANCE OF NEW JIU STATUTE WITHOUT ANY QUALIFICATION. A ONE-YEAR GAP IN UNESCO COOPERATION WITH JIU WOULD NOT BE ACCEPTABLE FOR THE UNITED STATES.

5. REFERENCED AIRGRAM CONTAINED THE BASIC TALKING POINTS REQUESTED IN PARA. 7C OF REFTEL A. HOWEVER, MISSION MAY ALSO DRAW ON INSTRUCTIONS TO USUN REGARDING THE CONTINUATION OF THE JIU (REFTEL D) AND THE STATEMENT MADE BY THE U.S. DELEGATE IN THE FIFTH COMMITTEE OF THE GENERAL ASSEMBLY (REFTEL E).

6. THE UNGA RESOLUTION ADOPTING THE NEW JIU STATUTE WAS ACCEPTED BY CONSENSUS WITHIN THE FIFTH COMMITTEE OF THE UNGA AND THE PLENARY. IN ADDITION TO THE UNITED STATES, THE RESOLUTION WAS CO-SPONSORED BY THE FOLLOWING COUNTRIES REPRESENTED ON EX BD: AUSTRALIA, BELGIUM, FRANCE, INDIA, TUNISIA, AND UGANDA. THE FOLLOWING OTHER COUNTRIES ALSO

CO-SPONSORED THE RESOLUTION: ALGERIA, ARGENTINA, GHANA, KENYA, TANZANIA, YUGOSLAVIA AND ZAMBIA. AT ITS DISCRETION, MISSION SHOULD REMIND CO-SPONSORING DELEGATIONS OF THEIR SUPPORT FOR THE NEW STATUTE IN NEW YORK. FRANCE HAS BEEN A STRONG SUPPORTER OF THE JIU AND ACTIVE SUPPORT ALSO COULD BE EXPECTED FROM THE FRG, JAPAN, AND THE SCANDINAVIANS. IN STIMULATING SUCH SUPPORT, WE URGE MISSION NOT TO ALLOW ACCEPTANCE OF THE NEW STATUTE TO BECOME A NORTH/SOUTH ISSUE; IT IS IMPORTANT TO ASSOCIATE LDCS WITH SUPPORT FOR EVALUATION.

7. AS REQUESTED, TALKING POINTS FOR EACH OF THE QUOTE DIFFICULTIES UNQUOTE LISTED IN PARA. 5 OF REFTEL A:

A. ONLY THE GENERAL CONFERENCE HAS POWER TO ESTABLISH A SUBSIDIARY ORGAN.

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-- WHILE WE DO NOT WANT PERMANENT DELEGATION TO STIMULATE OR OPENLY SUPPORT SECRETARIAT POSITION ON THIS MATTER, WE BELIEVE THAT POSITION IS LEGALLY SOUND IN LIGHT OF ARTICLE IV(D)(II) OF THE UNESCO CONSTITUTION AND RULES 42-48 OF THE RULES OF PROCEDURE. WE DO NOT BELIEVE THAT AUTHORIZATION FOR EXECUTIVE BOARD QUOTE TO TAKE APPROPRIATE MEASURES TO INSURE THAT UNESCO WILL BENEFIT FROM THE OPERATIONS OF THE UNIT UNQUOTE CAN BE READ TO AUTHORIZE BOARD TO PERFORM FUNCTIONS LIMITED BY THE CONSTITUTION TO THE GENERAL CONFERENCE.

-- WHO LEGAL STAFF DEVELOPED A MEANS FOR OVERCOMING A SIMILAR DIFFICULTY. (DETAILS HAVE BEEN REQUESTED FROM GENEVA AND WILL BE SENT ON TO MISSION WHEN AVAILABLE.)

-- THE LACK OF COOPERATION OF UNESCO WITH THE JIU FOR EVEN A ONE-YEAR PERIOD WOULD BE UNACCEPTABLE FROM THE U.S. POINT OF VIEW.

-- THEREFORE, IF THIS LEGAL OBJECTION IS RAISED USDEL SHOULD SUPPORT DELAYING FULL AND/OR FINAL APPROVAL OF NEW STATUTE UNTIL NEXT MEETING OF GENERAL CONFERENCE AND SHOULD SUPPORT MEASURES TO ENSURE FULL COOPERATION BETWEEN JIU AND UNESCO IMMEDIATELY. FOR EXAMPLE, USDEL COULD PROPOSE THAT BOARD ACCEPT OPERATION OF JIU UNDER TERMS OF STATUTE WITH SOLE EXCEPTION THAT JIU WOULD NOT BECOME A SUBSIDIARY ORGAN UNTIL APPROVAL BY GENERAL CONFERENCE.

B. THE STATUTE WOULD INFRINGE ON AUTHORITY OF DIRECTOR GENERAL.

-- THE AUTHORITY OF THE INSPECTORS REMAINS THE SAME UNDER THE NEW STATUTE AS IT WAS UNDER THE ORIGINAL TERMS OF REFERENCE OF THE JIU WHICH WERE ACCEPTED BY UNESCO.

-- THE JIU INSPECTORS DO NOT BELIEVE THAT THEIR AUTHORITY LIMITED OFFICIAL USE

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HAS BEEN INCREASED IN ANY WAY. (SOURCE: INSPECTOR EARL D. SOHM).

-- ARTICLE 5.5 SPECIFICALLY PROVIDES THAT INSPECTORS QUOTE SHALL NOT, HOWEVER, HAVE THE POWER OF DECISION, NOR SHALL THEY INTERFERE IN THE OPERATIONS OF THE SERVICES THEY INSPECT. UNQUOTE

C. RIGHT OF INSPECTORS TO SPEAK AUTOMATICALLY AT EVERY GOVERNING BODY MEETING.

-- WE DO NOT BELIEVE NEW STATUTE AFFECTS THE ABILITY OF THE CHAIRMAN TO MAINTAIN ORDER AT MEETINGS OF THE GOVERNING BODY.

-- A POSSIBLE DISAGREEMENT BETWEEN AN INSPECTOR AND THE DG SHOULD NOT BE SEEN AS CREATING A CONFUSING SITUATION BUT, RATHER, AS A MATTER WORTHY OF BEING BROUGHT TO THE ATTENTION OF MEMBER GOVERNMENTS.

D. INSPECTING THE INSPECTORS.

-- THE SELECTION AND QUALIFICATIONS OF INSPECTORS ARE PROVIDED FOR IN ARTICLES 2 AND 3 OF THE STATUTE.

-- ARTICLE 4.4 PROVIDES THAT AN INSPECTOR'S TERM OF OFFICE SHALL BE TERMINATED IF ALL THE OTHER INSPECTORS AGREE QUOTE HE HAS CEASED TO DISCHARGE HIS DUTIES IN A MANNER CONSISTENT WITH THE PROVISIONS OF THE PRESENT STATUTE AND AFTER THAT CONCLUSION IS CONFIRMED BY THE GENERAL ASSEMBLY. UNQUOTE

-- THE VERY NATURE OF THE JIU FUNCTION TO PROVIDE INDEPENDENT INSPECTION AND EVALUATION OF THE SECRETARIAT'S PERFORMANCE REQUIRES THAT THE INSPECTORS NOT BE SUBJECT TO AND SECRETARIAT CONTROL.

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ORIGIN IO-04

INFO OCT-01 ISO-00 /005 R

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DRAFTED BY IO/HDC:JJBUCZACKI:DD

APPROVED BY IO/HDC:RANDREW

IO/IBC/SC:FJHOLEVA

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FM SECSTATE WASHDC

INFO USMISSION GENEVA 0000

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FOL REPEAT STATE 83056 ACTION PARIS INFO USUN NY VIENNA
AIEA VIENNA ROME LONDON NAIROBI MONTREAL DTD 13 APR.

QUOTE

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Copy: SINGLE
Sent Date: 13-Apr-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
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Disposition Approved on Date:
Disposition Case Number: n/a
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Disposition Date: 22 May 2009
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Expiration:
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From: STATE
Handling Restrictions: n/a
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Legacy Key: link1977/newtext/t19770460/aaaacajl.tel
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TAGS: AORG, UN, ECOSOC, UNESCO
To: PARIS
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